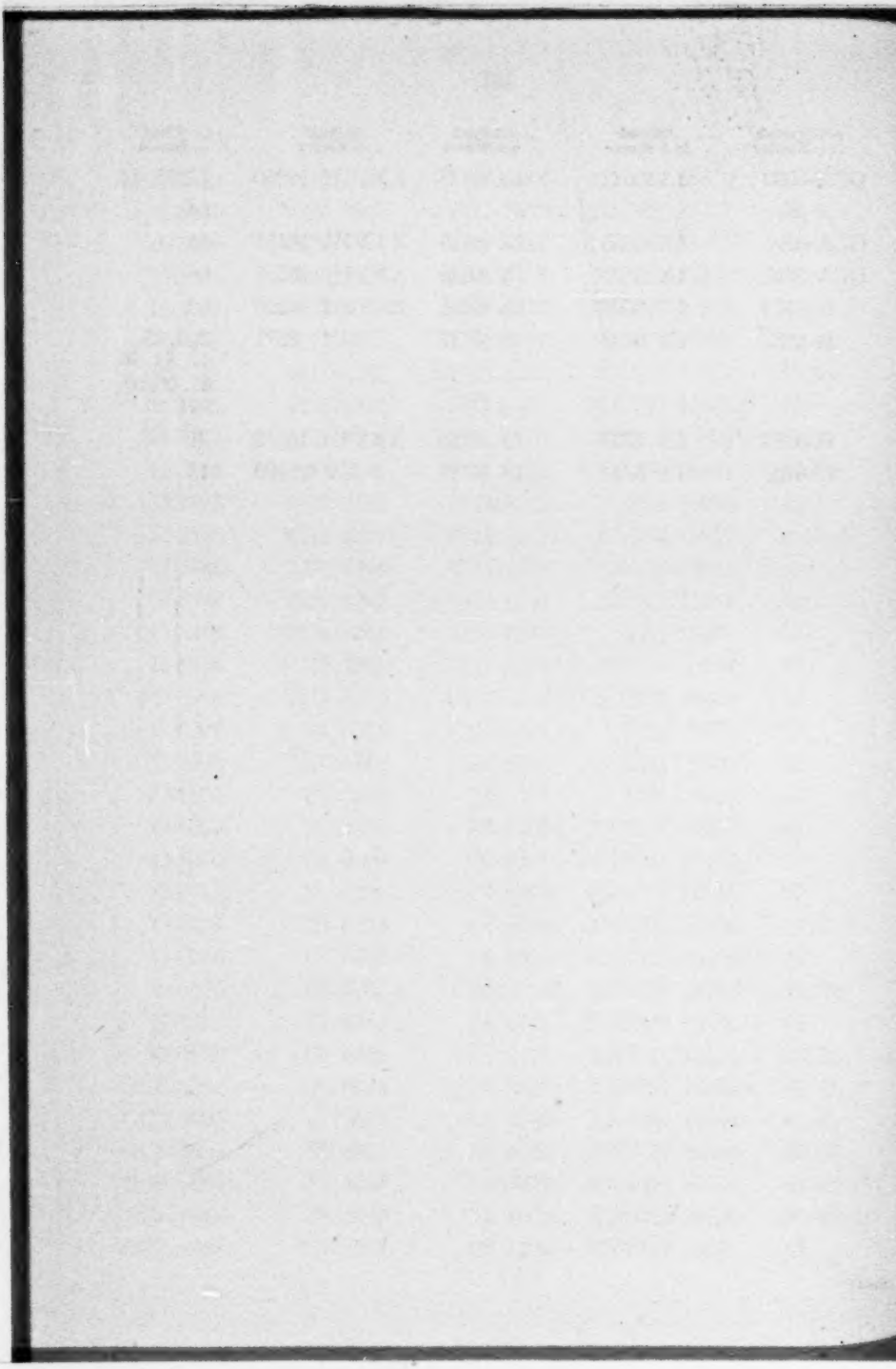

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

No. [redacted] 2

HARTFORD-EMPIRE COMPANY, F. GOODWIN SMITH, BARTLETT ARKELL, ET AL.,

Appellants,

v.

THE UNITED STATES OF AMERICA.

BRIEF ON BEHALF OF CERTAIN GLASS MANUFACTURING COMPANIES, APPEARING BY COUNSEL AS AMICUS CURIAE IN ANSWER TO BREIF HEREIN OF WALTER A. BUCK, ESQ., AS AMICUS CURIAE

ARNOLD BOYD,
60 Broadway,
New York, N. Y.
as Amicus Curiae, Representing
the Knox Companies.

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In the

Supreme Court of the United States

October Term, 1943

No. 7

Hartford-Empire Company, F. Goodwin Smith, Bartlett Arkell, et al.,

Appellants,

v.

The United States of America.

Appeal From the District Court of the United States for the Northern District of Ohio. No. 4426 Civil.

Summary Statement of Position

There has recently been filed in the above matter a brief by Walter A. Buck, Esq., as amicus curiae, representing some medium sized companies in the glass industry, in which objection is made to the remedy embodied in the judgment herein of the United States District Court for the Northern District of Ohio, Western Division.

Certain other companies in the glass industry, licensees of the Hartford-Empire Company, do not agree with Mr.

Buck's contentions. Accordingly, this brief is being filed by Arnold Boyd, Esq., as amicus curiae, on behalf of the so-called Knox Companies, consisting of:

Knox Glass Bottle Company, of Pennsylvania
Knox Glass Bottle Company, of Mississippi
Lincoln Glass Bottle Company
Marienville Glass Company
Metro Glass Bottle Company
Oil City Glass Bottle Company
Pennsylvania Bottle Company
Seaboard Glass Bottle Company
Wightman Bottle & Glass Manufacturing Company.

Argument

The gist of Mr. Buck's contentions is that medium sized glass manufacturing companies have been able to survive in the past in competition with the larger glass manufacturing companies only because of the technical services supplied to them by the Hartford-Empire Company, and will be able so to survive in the future only if they continue to receive such services from the Hartford-Empire Company; that the Hartford-Empire Company will be unable to continue to supply such services if its licensing system, which constitutes its principal source of income, is terminated; that the judgment of the Lower Court has put an end to this licensing system and thus, if allowed to stand, will deprive the medium sized glass manufacturing companies of these technical services and thereby bring about their destruction.

From these premises Mr. Buck argues that the judgment, with respect to remedy, should be reversed and the case remanded with directions that testimony be taken on the remedial aspects of the judgment.

We submit that Mr. Buck's contentions and conclusions are unsound. There is nothing in the judgment of the Dis-

trict Court which threatens the existence of the Hartford-Empire Company so long as it abstains from illegal monopolistic practices. There is nothing in the judgment that either directly or indirectly prohibits the Hartford-Empire Company from supplying technical services to glass companies, or from developing, manufacturing and selling glass manufacturing machinery and equipment, provided, of course, that such business is conducted by the Hartford-Empire Company without violation of the anti-trust laws. Such a business certainly would enable the Hartford-Empire Company to continue in existence and to continue to supply machinery and equipment and technical services, at a profit to itself, to glass manufacturers who do not have or desire to maintain their own engineering staff and manufacture their own equipment. Thus the licensing system which has been condemned by the District Court is not essential to the continued business existence of the Hartford-Empire Company, or to the supply of technical services to the Glass Industry, or to the preservation of the medium sized glass manufacturing companies.

Conclusion

After a careful examination of the judgment of the District Court we are of the opinion that the remedies provided therein are and will be beneficial to the glass industry and should not be modified.

Respectfully submitted,

Arnold Boyd,
60 Broadway,
New York, N. Y.
as Amicus Curiae, Representing
the Knox Companies.